

## **REMARKS**

In the Office Action, the Examiner objected to the priority claim; objected to claim 11; rejected claim 21 under the second paragraph of 35 USC §112; and rejected claims 1-24 under 35 U.S.C. §103(a). These objections and rejections are fully traversed below.

Claims 11, 21, 23 and 24 have been amended to further clarify the subject matter regarded as the invention. Since these amendments neither create new issues nor require substantial additional search or examination, they should be entered. Claims 1-24 remain pending. Reconsideration of the application is respectfully requested based on the following remarks.

### **Priority**

In the Office Action, the Examiner alleges that one or more conditions for receiving benefit of priority may be lacking. Regardless of whether priority is available, Applicants distinguish the claimed invention from the references cited by the Examiner, thereby rendering availability of priority moot.

### **Objection to the Claims**

In the Office Action, the Examiner objected to claim 11 due to a minor informality. Claim 11 has been amended to further clarify the subject matter regarded as the invention. Accordingly, it is respectfully requested that the objection to claim 11 be withdrawn.

### **Rejection of Claim 21 under 35 USC 112, 2<sup>nd</sup> Paragraph**

In the Office Action, the Examiner rejected claim 21 under the second paragraph of 35 USC §112 as being indefinite. Specifically, the Examiner asserted that claim 21 lacks antecedent basis for "the at least one application program." Claim 21 has been amended to clarify that the antecedent basis for the single application program resides in claim 11. Therefore, it is respectfully requested that the rejection of claim 21 under the second paragraph of 35 USC §112 be withdrawn.

**Rejection of Claims 1-24 under 35 USC 103(a)**

In the Office Action, the Examiner rejected claims 1-22 under 35 U.S.C. §103(a) as being unpatentable over Nieh et al., "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications," Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, October 1997 (hereafter "Nieh et al.") in view of Homer et al., US Patent Publication 2002/0042730 A1 (hereafter "Homer et al."); and rejected claims 23 and 24 under 35 U.S.C. §103(a) as being unpatentable over Homer et al. in view of Nieh et al. These rejections are fully traversed below.

On pages 27-29 of the Office Action, the Examiner provides "Response to Arguments" comments. Applicant notes for the record that paragraphs 11, 12 and 14 therein do not accurately reflect Applicant's prior arguments. The prior arguments are as they are in Amendment A submitted February 27, 2008.

Claim 1 pertains to a method for managing tasks performed on a computer capable of coupling over a network to a network-based media server. According to claim 1, tasks are received for performance on a single client application that operates on a computer and the tasks involve interaction with a media server over a network. Thereafter, the method activates operations at the computer to respond to each of the tasks, and coordinates performance of the activated operations in accordance with priority levels associated with the different media-based actions of the tasks.

On the other hand, Nieh et al. schedules computation resources for multiple multi-media real-time applications. That is, Nieh et al. is concerned with handling computation loads from the multiple multi-media real-time applications. "As the system load changes, SMART adjusts the allocation of resources dynamically and seamlessly. SMART is unique in its ability to automatically shed real-time tasks and regulate their execution rates when the system is overloaded, while providing better value in underloaded conditions than previously proposed schemes." Nieh et al., see Abstract

Hence, fundamentally, Nieh et al. is concerned with scheduling amongst different applications. Although Nieh et al., at section 3.1 on page 3 does indicate that the SMART scheduling considers "priority" [*Priority*. The system should not

degrade the performance of a high priority application in the presence of a low priority application.”], such priority is a priority of an application. See also, section 4.1 on page 6. In contrast, claim 1 recites that the tasks it prioritizes pertain to one or more different media-based actions performed by a single client application. Furthermore, claim 1 uses “priority levels associated with the different media-based actions of the tasks” that are performed by the single client application. However, at best, Nieh et al. is able to permit users to prioritize applications (Nieh et al., page 3, para. 3)(“The user can specify that applications have different priorities, meaning that the application with the higher priority is favored whenever there is contention for resources.”).

Moreover, in paragraph 13 on page 27 of the Office Action, the Examiner relies on page 8, paragraph 13, lines 1-3. Here, Nieh et al. merely indicates:

The Integrated Media Streams (IMS) Player from Sun Microsystems Laboratories is a timestamp-based system capable of playing synchronized audio and video streams. It adapts to its system environment by adjusting the quality of playback based on the system load.

Nieh et al., page 8, paragraph 13, lines 1-6.

While the Integrated Media Streams (IMS) Player is able to provide synchronized playback of audio and video streams, nothing suggests that different priority levels are used to process the audio and video streams. Hence, this portion of Nieh et al. also fails to teach or suggest the invention recited in claim 1. Indeed, Nieh et al. instead teaches that the audio and video streams are synchronized, see Nieh et al., paragraph 14. Hence, Applicants disagree with the Examiner’s characterization of Nieh et al. and therefore respectfully submit that Nieh et al. is unable to teach or suggest the method of claim 1.<sup>1</sup>

Accordingly, for at least the reasons noted above, it is respectfully submitted that claim 1 is patentably distinct from Nieh et al. in view of Homer et al. Homer et al. is not able to cure the serious deficiencies of Nieh et al. noted above. In addition, claim 11 pertains to a computer readable medium that includes computer program code that can operate similar to the method discussed above regarding claim 1. As such, for at least reasons similar to those noted above with respect to claim 1, it is

submitted that claim 11 is also patentably distinct from Nieh et al. in view of Homer et al.

Still further, claim 23 pertains to a computer for presenting media to its user. The computer includes a client media application program operable to enable the user to play, browse, preview, purchase, download or present media items for the benefit of the user. A task manager "manages performance of at least browse, preview, purchase or download operations by assigning priority levels to each of the browse, preview, purchase or download operations, and managing performance of the browse, preview, purchase or download operations in accordance with the assigned priority levels." Hence, in claim 23, a client media application operates in view of priorities levels assigned to each of the browse, preview, purchase or download operations. Hence, for reasons similar to those noted above, it is submitted that claim 23 is also patentably distinct from Homer et al. in view of Nieh et al.

Based on the foregoing, it is submitted that claims 1, 11 and 23 are patentably distinct from Nieh et al. and Homer et al., individually or in combination. Additional limitations recited in the independent claims or the dependent claims are not further discussed because the limitations discussed above are sufficient to distinguish the claimed invention from the cited art. Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claims 1-24 under 35 U.S.C. §103(a).

## **SUMMARY**

It is submitted that the objection to the claim 11 has been traversed. It is also submitted that claim 21 satisfies the requirements of 35 USC 112, second paragraph. In addition, it is submitted that claims 1-24 are patentably distinct from the cited references. Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the

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<sup>1</sup> Although the Examiner made a statement regarding teachings of other cited references in the Office Action at page 28, paragraph 13, such statement has not supported by the record.

Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

If it is determined that additional fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 504298 (Order No. 101-P271).

Respectfully submitted,

/C. Douglass Thomas/

C. Douglass Thomas  
Reg. No. 32,947

Technology & Innovation Law Group, PC  
19200 Stevens Creek Blvd., Suite 240  
Cupertino, CA 95014  
408-252-9991  
408-252-9993 (fax)